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BEFORE THE ARIZONA CORPORATION COMMISSION**COMMISSIONERS**

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

Arizona Corporation Commission
DOCKETED

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IN THE MATTER OF JNJ ENTERPRISES, DBA
CHRISTOPHER CREEK HAVEN WATER
COMPANY FOR APPROVAL OF THE SALE OF
ITS ASSETS AND TRANSFER OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO UTILITY SYSTEMS, LLC.

DOCKET NO. W-03880A-06-0299
DOCKET NO. W-20459A-06-0299DECISION NO. 69421**OPINION AND ORDER**

DATE OF HEARING: February 7, 2007

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

APPEARANCES: Mr. Gerald Lenzion, on behalf of JNJ Enterprises, dba
Christopher Creek Haven Water Company;Mr. Jeffery Daniels, on behalf of Utility Systems, LLC;
andMs. Robin Mitchell, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.**BY THE COMMISSION:**

On May 1, 2006, JNJ Enterprises dba Christopher Creek Haven Water Company
("Christopher Creek"), and Utility Systems, LLC ("Utility Systems") (collectively, "Applicants"),
filed with the Arizona Corporation Commission ("Commission") an application to transfer
Christopher Creek's Certificate of Convenience and Necessity ("CC&N") to Utility Systems and for
approval of the sale of Christopher Creek's assets to Utility Systems.

On June 1, 2006, the Commission's Utilities Division Staff ("Staff") filed a letter informing
Applicants that the application was insufficient.

On October 20, 2006, Staff filed a Sufficiency Letter in this docket indicating that the
application met the sufficiency requirements as outlined in the Arizona Administrative Code.

Pursuant to the Procedural Order, Applicants provided notice of the application in the *Payson*

1 *Roundup*, a newspaper of general circulation in the affected service area, on November 17, 2006.

2 By Procedural Order, a hearing on the application was scheduled to convene February 7,
3 2007.

4 On January 8, 2007, Staff filed its Staff Report on the application, recommending approval of
5 the transfer of CC&N and sale of assets subject to certain conditions.

6 On February 7, 2007, a full public hearing was convened before a duly authorized
7 Administrative Law Judge of the Commission. Mr. Gerald Lenzion appeared on behalf of
8 Christopher Creek, and Mr. Jeff Daniels appeared on behalf of Utility Systems and both presented
9 testimony. Staff appeared through counsel and presented testimony and evidence. No parties
10 appeared to present public comment. At the conclusion of the hearing, the matter was taken under
11 advisement pending submission of a Recommended Opinion and Order to the Commission.

12 * * * * *

13 Having considered the entire record herein and being fully advised in the premises, the
14 Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On May 11, 2006, Christopher Creek and Utility Systems jointly filed an application
17 with the Commission to sell the assets of Christopher Creek and to transfer its CC&N to Utility
18 Systems. The owner of Christopher Creek, Mr. Lenzion¹, stated he wished to sell the utility "for
19 personal reasons."

20 2. Christopher Creek is public service corporation in good standing with the
21 Commission. Christopher Creek initially received its CC&N in Commission Decision No. 50184
22 (August 20, 1979).

23 3. Christopher Creek provides water utility service to a one quarter of a square mile
24 section of land located approximately 20 miles east of Payson, Arizona in Gila County, and serves
25 approximately 166 customers. The service area is located in portions of Sections 19, 20, 29 and 30 in
26 Township 11 North Range 13 East in Gila County, Arizona.

27 _____
28 ¹ Mr. Lenzion also owns Gardner Water Company, which is located approximately 10 miles from Christopher Creek and is the subject of another pending docket, requesting the sale of assets and transfer of its CC&N to Utility Systems.

1 4. According to Staff's Report, Mr. Lenzion does not live full-time in the Payson area
2 and is in the process of selling both Christopher Creek and Gardner Water Company ("Gardner") to
3 Utility Systems.

4 5. According to Staff's Report, Mr. Jeffery Daniels, of Utility Systems and the current
5 on site manager for Christopher Creek, is a full-time resident of Payson and is better able to respond
6 to problems with the system more quickly than the current owner.

7 6. According to Staff's Report, the purchase agreement for both Christopher Creek and
8 Gardner shows a purchase price of \$280,000, with \$220,000 being carried by the current owner.
9 Additionally, the contract states Mr. Lenzion will stay on for one-year as a consultant at no cost to
10 the buyer.

11 7. At hearing, Mr. Lenzion indicated that considerable resources have been expended to
12 correct water pressure issues related to the Christopher Creek system.

13 8. In its Staff Report, Staff noted that the combined 2005 annual report filed for both
14 Christopher Creek and Gardner had some discrepancies. Staff stated that for the combined
15 companies the unaudited balance sheet showed total assets of \$259,363 and liabilities and capital of
16 \$155,942, which led Staff to conclude that because the companies' assets do not equal its liabilities,
17 that the companies have not been following the National Association of Regulatory Commissioners
18 Uniform System of Accounts ("NARUC") as required by A.A.C. R14-2-411.D.2.

19 9. According to Staff's Report, the combined annual report for 2005 for Christopher
20 Creek and Gardner showed net plant of \$251,746, zero customer deposits and zero advances in aid of
21 construction. Further, Staff noted long term debt of \$108,384, which consisted of \$106,384 for the
22 purchase of both water utilities and \$2,000 owed to Mr. Lenzion for operating costs. Additionally,
23 Staff stated that the principle and interest on loans related to the two utilities amounts to \$17,400
24 annually and combined losses equaled \$56,388 in 2004 and \$29,824 in 2005.

25 10. Staff's Report further noted that the combined annual report for 2005 did not contain
26 the cancelled checks showing that property taxes had been paid for the utilities. At hearing, Mr.
27 Lenzion testified that the documentation relating to the payment of the 2005 taxes had been
28 submitted to Staff prior to the hearing.

1 11. At hearing, Staff's witness confirmed that Christopher Creek had provided the
2 necessary documentation to Staff regarding the property taxes, and therefore Christopher Creek had
3 satisfied the compliance item.

4 12. Staff concluded that the inaccurate accounting methods and the large losses for
5 Christopher Creek could jeopardize Christopher Creek's overall financial health as well as its
6 continued ability to provide adequate service to its customers.

7 13. Therefore, Staff recommends that Christopher Creek file a rate case by March 31,
8 2008, using a 2007 test year and that Christopher Creek maintain its books and records in accordance
9 with the NARUC standards.

10 **Water System**

11 14. According to Staff's Report, the Christopher Creek system consists of four wells with
12 a total production of 81 gallons per minute ("gpm"), five storage tanks with a storage capacity of
13 45,000 gallons and a distribution system serving 166 connections.

14 15. Staff concluded the Christopher Creek system has adequate production and storage
15 capacity to serve its existing base of customers and for future growth.

16 16. According to Staff's Engineering Report, the Christopher Creek system is within
17 acceptable limits for water loss, which was calculated to be four percent.

18 17. The Arizona Department of Environmental Quality ("ADEQ") has determined that the
19 Christopher Creek system is currently delivering water that meets water quality standards as required
20 by the Arizona Administrative Code.

21 18. Staff found no ADEQ monitoring or reporting deficiencies for Christopher Creek;
22 however, Staff noted that an ADEQ Drinking Water Compliance Status Report dated October 24,
23 2006, showed discrepancies in the well identification data submitted with certain tests and ADEQ
24 requested Christopher Creek to file documentation showing the correct well identification data.

25 19. Staff recommends Christopher Creek file with Docket Control, as a compliance item
26 in this Docket, documentation demonstrating the Christopher Creek system (ADEQ Identification
27 No. PWS ID #04-005) is in full compliance with ADEQ requirements within 60 days of the effective
28 date of an Order in this matter.

1 20. According to Staff's Report, Christopher Creek is not in an Arizona Department of
2 Water Resources ("ADWR") Active Management Area, and is not required to comply with ADWR
3 monitoring and reporting requirements.

4 21. On January 23, 2006, the U.S. Environmental Protection Agency ("EPA") reduced the
5 arsenic maximum containment level ("MCL") from 50 parts per billion ("ppb") to 10 ppb.
6 According to Staff's Report, the Christopher Creek system is delivering water below the new
7 maximum arsenic standard.

8 22. The Commission's Utilities Division found no compliance delinquencies for
9 Christopher Creek.

10 23. Staff recommends approval of the transfer of CC&N and sale of assets for
11 Christopher Creek to Utility Systems, LLC, subject to the following conditions:

- 12 1. That Christopher Creek file a rate case by March 31, 2008, using a 2007 test
13 year.
- 14 2. That Christopher Creek maintain its books and records in accordance with the
15 NARUC systems of accounts.
- 16 3. That Christopher Creek file with Docket Control, as a compliance item in this
17 docket, documentation demonstrating that the water system (PWS ID # 04-
18 005) is in full compliance with ADEQ requirements within 60 days of the
19 effective date of the an Order in this matter.

20 24. Staff further recommends that if Christopher Creek fails to comply with the above
21 stated timeframes the Decision granting the transfer and sale of assets should be considered null and
22 void after due process.

23 25. Staff's recommendations, as set forth above, are reasonable.

24 26. Because an allowance for the property tax expense is included in Christopher Creek
25 and Utility Systems' rates and will be collected from its customers, the Commission seeks assurances
26 from Christopher Creek and Utility Systems that any taxes collected from ratepayers have been
27 remitted to the appropriate taxing authority. It has come to the Commission's attention that a number
28 of water companies have been unwilling or unable to fulfill their obligation to pay the taxes that were

1 collected from ratepayers, some for as many as twenty years. It is reasonable, therefore, that as a
2 preventive measure Christopher Creek and Utility Systems shall annually file, as part of its annual
3 report, an affidavit with the Utilities Division attesting that the company is current in paying its
4 property taxes in Arizona.

5 CONCLUSIONS OF LAW

6 1. Christopher Creek is a public service corporation within the meaning of Article XV of
7 the Arizona Constitution and A.R.S. § 40-281, 40-282 and 40-285.

8 2. The Commission has jurisdiction over Christopher Creek and the subject matter of
9 this application.

10 3. Notice of the application was provided in accordance with the law.

11 4. There is a public need and necessity for water service in the service territory.

12 5. Subject to compliance with the above stated conditions, Utility Systems is a fit and
13 proper entity to receive Christopher Creek's CC&N.

14 6. Approval of the sale of Christopher Creek's assets and the transfer of its CC&N to
15 Utility Systems is in the public interest.

16 7. The sale and transfer application should be granted subject to the conditions set forth
17 above.

18 ORDER

19 IT IS THEREFORE ORDERED that the application of JNJ Enterprises dba Christopher
20 Creek Haven Water Company for approval of the sale of its assets and the transfer of its CC&N to
21 Utility Systems, LLC is hereby approved, conditioned on JNJ Enterprises dba Christopher Creek
22 Haven Water Company and Utility Systems, LLC compliance with the following ordering
23 paragraphs.

24 IT IS FURTHER ORDERED that Utility Systems, LLC shall file a rate case with the Arizona
25 Corporation Commission by March 31, 2008, using a 2007 test year.

26 IT IS FURTHER ORDERED that Utility Systems, LLC shall maintain its books and records
27 in accordance with the National Association of Regulatory Commissioners Uniform System of
28 Accounts.

1 IT IS FURTHER ORDERED that Utility Systems, LLC shall file with Docket Control, within
2 60 days of the effective date of this Order, as a compliance item in this docket, documentation
3 demonstrating that the Christopher Creek Haven Water Company system (PWS ID # 04-005) is in
4 full compliance with Arizona Department of Environmental Quality requirements.

5 IT IS FURTHER ORDERED that that if Utility Systems, LLC fails to comply with the above
6 stated conditions within the required time-frames the sale of assets and transfer of Certificate of
7 Convenience and Necessity conditionally granted herein shall become null and void, after due
8 process.

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IT IS FURTHER ORDERED that JNJ Enterprises dba Christopher Creek Haven Water Company and Utility Systems, LLC shall annually file as part of its annual report, an affidavit with the Utilities Division attesting that it is current on paying its property taxes in Arizona.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 16th day of April, 2007.


BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: CHRISTOPHER CREEK HAVEN WATER
2 COMPANY and UTILITY SYSTEMS, LLC
3 DOCKET NOS.: W-03880A-06-0299 and W-20459A-06-0299
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